

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3801 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT  
and  
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAMJIBHAI VALABHAI GOHEL

Versus

BUS NO. GQE 9314 (DRIVER) LALJI T VALA  
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Appearance:

MR NM KAPADIA for Petitioner  
MR MITUL K SHELAT for Respondent No. 1, 2, 3  
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CORAM : MR.JUSTICE J.N.BHATT  
and  
MR.JUSTICE K.M.MEHTA

Date of decision: 26/09/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this appeal under Section 173 of the Motor Vehicles Act, 1988, at the instance of the original claimant, a short question which has been raised is with regard to the quantification of damages awarded by the Tribunal in MACP No. 236 of 1990 by its award dated 4.2.1999 whereby the claimant came to be awarded an amount of Rs. 75,640/- by way of compensation for personal injuries sustained by him in a vehicular accident which occurred on 14.1.1990 between 1 and 2 p.m. on Virpur-Jetpur highway between vehicles, namely, S.T. buses.

2. The appellant is original claimant whereas the respondent No. 1 is driver of S.T. Bus GQE 9314 whereas respondent No. 2 is driver of S.T. Bus GQE 9677 and respondent No. 3 is State Transport Corporation. The claimant was travelling in a S.T. bus from Junagadh to Rajkot. When the said bus reached near Virpur-Jetpur road at that time S.T. Bus bearing registration No. GQE 9314 came with excessive speed and dashed against the bus in which the claimant was travelling. As a result of which, the claimant sustained serious injuries. The claimant was shifted to Virpur hospital and thereafter to Jetpur hospital from where he was shifted to Junagadh hospital. Subsequently, he was shifted to Jamnagar hospital and kept as an indoor patient in Jamnagar hospital where he was treated by Orthopaedic Dr. Vakharia. He was also admitted in the hospital of Dr. Maheshwari for the injuries suffered by him on his left hand elbow and for fracture on his right leg knee. The appellant was working as Gram Sevak in the Bhanvad Taluka of Jamnagar District and he was earning Rs. 2000/- per month at the relevant time. Therefore, he claimed compensation of Rs. 1,50,000/- against which the Tribunal awarded a sum of Rs. 75,640/- with interest at the rate of 12% per annum from the date application till payment and therefore, the original claimant has filed this appeal under Section 173 of the Act for enhancement of the amount of compensation.

3. After having taken into consideration the facts of the case, nature and number of injuries, prolonged period of treatment, extent of disablement, age of the claimant, the amount awarded by the Tribunal is, grossly, inadequate. The Tribunal has taken quite a wrong approach in applying five multiples to the multiplicand accepting Rs. 7,128/- per year as loss of income. In our opinion, the applicant who was aged 27 years of age at the relevant time and therefore, five multiplier is quite on a lower side. Even the aspect of 15 multiplier is taken without disturbing the multiplicand, then, also,

the claimant would be entitled to in all aggregating to Rs. 1,25,000/- and therefore, without entering into any other heads or different aspects, we deem it as quite expedient and necessary to raise the amount of compensation of Rs. 75,640/- awarded by the Tribunal to Rs. 1,25,000/- with same rate of interest like that of 12% from the date of application till realisation. Even taking a conservative view the claimant would be entitled to the amount of Rs. 1,25,000/- under both the heads. Therefore, the appeal is required to be allowed to that extent. The impugned judgement and award is required to be modified, accordingly. The appeal shall stand allowed and the award shall be modified, accordingly.

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